



Sen. John J. Cullerton

**Filed: 4/3/2008**

09500SB2222sam004

LRB095 18675 RAS 48829 a

1 AMENDMENT TO SENATE BILL 2222

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2222, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Illinois Insurance Code is amended by  
6 changing the heading of Article XXXI 1/2 and Sections 512-1,  
7 512-2, 512-3, 512-4, 512-5, 512-6, 512-7, 512-8, 512-9, and  
8 512-10 and by adding Sections 512-7.5, 512-7.10, 512-11,  
9 512-12, and 512-13 as follows:

10 (215 ILCS 5/Art. XXXI.5 heading)

11 ARTICLE XXXI 1/2.

12 PHARMACEUTICAL BENEFITS MANAGEMENT ~~THIRD PARTY PRESCRIPTION~~  
13 PROGRAMS

14 (215 ILCS 5/512-1) (from Ch. 73, par. 1065.59-1)

15 Sec. 512-1. Short Title. This Article shall be known and

1 may be cited as the "Pharmaceutical Benefits Management  
2 Programs Law ~~Third Party Prescription Program Act~~".

3 (Source: P.A. 82-1005.)

4 (215 ILCS 5/512-2) (from Ch. 73, par. 1065.59-2)

5 Sec. 512-2. Purpose. It is hereby determined and declared  
6 that the purpose of this Article is to regulate pharmaceutical  
7 benefits management programs ~~certain practices engaged in by~~  
8 ~~third party prescription program administrators.~~

9 (Source: P.A. 82-1005.)

10 (215 ILCS 5/512-3) (from Ch. 73, par. 1065.59-3)

11 Sec. 512-3. Definitions. For the purposes of this Article,  
12 unless the context otherwise requires, the terms defined in  
13 this Article have the meanings ascribed to them herein:

14 "Covered entity" means any entity that has entered into an  
15 agreement, directly or indirectly, with a pharmaceutical  
16 benefits manager to provide a pharmaceutical benefits  
17 management program. "Covered entity" includes, but is not  
18 limited to, a person or entity that has entered into a group  
19 contract for health care services with an insurer, Health  
20 Maintenance Organization, Limited Health Services Organization  
21 or Voluntary Health Services Plan under which the  
22 pharmaceutical benefits manager is contractually obligated to  
23 provide a pharmaceutical benefits management program.

24 "Covered individual" means a member, participant,

1 enrollee, contract holder, policy holder, or beneficiary of a  
2 covered entity who is provided health coverage by the covered  
3 entity. "Covered individual" includes, but is not limited to, a  
4 dependent or other person who is provided health coverage  
5 through a policy, contract, or plan for a covered individual.

6 "Director" means the Director of the Division of Insurance  
7 of the Department of Financial and Professional Regulation.

8 "Division" means the Division of Insurance of the  
9 Department of Financial and Professional Regulation.

10 "Maximum allowable cost" or "MAC" means the maximum per  
11 unit reimbursement as established and determined by the  
12 pharmaceutical benefits manager for a drug, medical product, or  
13 device at the time a claim is processed.

14 "Pharmaceutical benefits management program" or "program"  
15 means any system established by contract or otherwise of (i)  
16 providing for the administration of or reimbursement for  
17 pharmaceutical services and prescription drug products offered  
18 or operated in this State by a PBM for or on behalf of a covered  
19 entity or (ii) procuring prescription drugs at a negotiated  
20 rate for dispensation to covered individuals by a  
21 pharmaceutical benefits manager operating in this State.

22 "Pharmaceutical benefits manager " or " PBM" means any  
23 person, partnership, or corporation that issues or causes to be  
24 issued any payment or reimbursement to a provider for services  
25 rendered pursuant to a pharmaceutical benefits management  
26 program or an entity that procures prescription drugs at a

1 negotiated rate. "Pharmaceutical benefits manager " or " PBM"  
2 does not include the Director of Healthcare and Family Services  
3 or any agent authorized by the Director of Healthcare and  
4 Family Services to reimburse or procure prescription drugs at a  
5 negotiated rate pursuant to a program of which the Department  
6 of Healthcare and Family Services is the third party.

7 "Pharmacy" has the meaning given to the term in the  
8 Pharmacy Practice Act.

9 "Pharmacy network provider" means a pharmacist or pharmacy  
10 that has a contractual relationship with a health benefit plan  
11 or pharmacy benefit manager to provide pharmacist services.

12 "Pharmacy reimbursement rate" means the amount a PBM pays  
13 to a pharmacy or pharmacy network provider for prescription  
14 drugs and services provided by the pharmacy or pharmacy network  
15 provider to the PBM.

16 "Rebates" means any valuable consideration or inducement  
17 to directly or indirectly affect or influence the dispensing of  
18 pharmaceutical drugs, supplies, or services.

19 ~~-(a) "Third party prescription program" or "program" means~~  
20 ~~any system of providing for the reimbursement of pharmaceutical~~  
21 ~~services and prescription drug products offered or operated in~~  
22 ~~this State under a contractual arrangement or agreement between~~  
23 ~~a provider of such services and another party who is not the~~  
24 ~~consumer of those services and products. Such programs may~~  
25 ~~include, but need not be limited to, employee benefit plans~~  
26 ~~whereby a consumer receives prescription drugs or other~~

1 ~~pharmaceutical services and those services are paid for by an~~  
2 ~~agent of the employer or others.~~

3 ~~(b) "Third party program administrator" or "administrator"~~  
4 ~~means any person, partnership or corporation who issues or~~  
5 ~~causes to be issued any payment or reimbursement to a provider~~  
6 ~~for services rendered pursuant to a third party prescription~~  
7 ~~program, but does not include the Director of Healthcare and~~  
8 ~~Family Services or any agent authorized by the Director to~~  
9 ~~reimburse a provider of services rendered pursuant to a program~~  
10 ~~of which the Department of Healthcare and Family Services is~~  
11 ~~the third party.~~

12 (Source: P.A. 95-331, eff. 8-21-07.)

13 (215 ILCS 5/512-4) (from Ch. 73, par. 1065.59-4)

14 Sec. 512-4. Licensure; application and fees Registration.

15 (a) No person, partnership, corporation, or other entity  
16 may act as a PBM in this State without being licensed by the  
17 Division.

18 (b) Each applicant for licensure must file with the  
19 Director the following information and documents:

20 (1) the name of the company and the state or country  
21 under the laws of which the company is organized or  
22 authorized;

23 (2) the title of the Act under or by which the company  
24 was incorporated or organized, the date of its  
25 incorporation or organization, and, if a corporation, the

1 period of its duration;

2 (3) an organizational chart describing the  
3 relationship between the PBM, its parent organization and  
4 any affiliates, including the state or country of domicile  
5 and the primary business of each entity;

6 (4) a list of the names, addresses, official positions,  
7 and biographical affidavits of the persons responsible for  
8 the conduct of the affairs of the PBM;

9 (5) sample copies of contracts utilized by the PBM  
10 between the PBM and covered entities; if the terms and  
11 conditions in such agreements include significant,  
12 substantial, or material variations, the filing of one  
13 complete sample agreement together with a description of  
14 all variable terms and conditions may satisfy this  
15 requirement; and

16 (6) such other information as the Director may  
17 reasonably require.

18 (c) A licensee shall keep current the information required  
19 to be disclosed in its application for licensure by reporting  
20 all material changes or additions to the Director within 30  
21 days after the end of the month of each change or addition. A  
22 material change or addition includes any modification of the  
23 information that has a significant effect on the operation of  
24 the PBM.

25 (d) Beginning on January 1, 2009, each PBM doing business  
26 in this State must pay to the Director an initial licensure fee

1 of \$1,000.00. Thereafter, annually on or before January 1 of  
2 each year, a PBM doing business in this State that seeks to  
3 renew a PBM license must pay to the Director a renewal fee of  
4 \$250. All fees collected under this Section shall be deposited  
5 into the Insurance Producer Administration Fund. All third  
6 party prescription programs and administrators doing business  
7 in the State shall register with the Director of Insurance. The  
8 Director shall promulgate regulations establishing criteria  
9 for registration in accordance with the terms of this Article.  
10 The Director may by rule establish an annual registration fee  
11 for each third party administrator.

12 (Source: P.A. 82-1005.)

13 (215 ILCS 5/512-5) (from Ch. 73, par. 1065.59-5)

14 Sec. 512-5. Disciplinary grounds; multiple accounts  
15 Fiduciary and Bonding Requirements.

16 (a) The Director may place on probation, suspend, revoke,  
17 or refuse to issue or renew a pharmaceutical benefits  
18 management program or PBM license or may levy a civil penalty  
19 in accordance with this Section or take any combination of  
20 actions for any one or more of the following causes:

21 (1) Providing incorrect, misleading, incomplete, or  
22 materially untrue information in the license application.

23 (2) Violating any provision of this Law or the  
24 insurance laws of this or another state or violating any  
25 rule, subpoena, or order of the Director of this or another

1 state's insurance commissioner.

2 (3) Obtaining or attempting to obtain a license through  
3 misrepresentation or fraud.

4 (4) Improperly withholding, misappropriating, or  
5 converting any moneys or properties received in the course  
6 of doing business.

7 (5) Intentionally misrepresenting the terms of any  
8 contract or agreement between a PBM and a covered entity.

9 (6 )Having admitted to or been found to have committed  
10 any unfair trade practice or fraud.

11 (7) Using fraudulent, coercive, or dishonest practices  
12 or demonstrating incompetence, untrustworthiness, or  
13 financial irresponsibility in the conduct of business in  
14 this State or elsewhere.

15 (8) Having a professional license or registration or  
16 its equivalent denied, suspended, or revoked in any other  
17 state, province, district, or territory.

18 (9) Forging a name to an application.

19 (10) Failing to pay any tax or fee, as required by law.

20 (b) If the action by the Director is to deny renewal,  
21 suspend, or revoke a license or to deny an application for a  
22 licensure, the Director shall notify the applicant and advise,  
23 in writing, the applicant of the reason for the suspension,  
24 revocation, or denial. The applicant or licensee may make  
25 written demand upon the Director within 30 days after the date  
26 of mailing of notice for a hearing before the Director to

1 determine the reasonableness of the Director's action. The  
2 hearing must be held within not fewer than 20 days nor more  
3 than 30 days after the mailing of the notice of hearing and  
4 shall be held pursuant to the Illinois Administrative Code.

5 (c) In addition to or instead of any applicable denial,  
6 suspension, or revocation of a license, an applicant or  
7 licensee may, after hearing, be subject to a civil penalty.

8 (d) The Director has the authority to enforce the  
9 provisions of and impose any penalty or remedy authorized by  
10 this Article against any person or PBM who is under  
11 investigation for or charged with a violation of this Law or  
12 Code even if the license has been surrendered or has lapsed by  
13 operation of law.

14 (e) Upon the suspension, denial, or revocation of a  
15 license, the licensee having possession or custody of the  
16 license shall promptly deliver it to the Director in person or  
17 by mail. The Director shall publish all suspensions, denials,  
18 or revocations after the suspension, denial, or revocation  
19 becomes final.

20 (f) A licensee whose license is revoked or applicant whose  
21 application is denied pursuant to this Section is ineligible to  
22 apply for any pharmaceutical benefits management program or PBM  
23 license under this Law for 3 years after the revocation or  
24 denial. A pharmaceutical benefits management program or PBM  
25 whose license as a pharmaceutical benefits management program  
26 or PBM has been revoked, suspended, or denied may not be

1 employed, contracted, or engaged in any related capacity during  
2 the time the revocation, suspension, or denial is in effect.

3 (g) A PBM must inform the Director in a manner acceptable  
4 to the Director of a change of address within 30 days after the  
5 change. A third party prescription program administrator shall  
6 ~~(1) establish and maintain a fiduciary account, separate and~~  
7 ~~apart from any and all other accounts, for the receipt and~~  
8 ~~disbursement of funds for reimbursement of providers of~~  
9 ~~services under the program, or (2) post, or cause to be posted,~~  
10 ~~a bond of indemnity in an amount equal to not less than 10% of~~  
11 ~~the total estimated annual reimbursements under the program.~~

12 ~~The establishment of such fiduciary accounts and bonds~~  
13 ~~shall be consistent with applicable State law. If a bond of~~  
14 ~~indemnity is posted, it shall be held by the Director of~~  
15 ~~Insurance for the benefit and indemnification of the providers~~  
16 ~~of services under the third party prescription program.~~

17 (h) Any PBM ~~An administrator~~ who operates more than one  
18 pharmaceutical benefits management ~~third party prescription~~  
19 program may establish and maintain a separate fiduciary account  
20 or bond of indemnity for each such program, or may operate and  
21 maintain a consolidated fiduciary account or bond of indemnity  
22 for all such programs.

23 The requirements of this subsection (h) ~~Section~~ do not  
24 apply to any pharmaceutical benefits management ~~third party~~  
25 ~~prescription~~ program administered by or on behalf of any  
26 insurance company, Health Maintenance Organization, Limited

1 Health Service Organization, or Voluntary Health Services Plan  
2 ~~Care Service Plan Corporation or Pharmaceutical Service Plan~~  
3 ~~Corporation~~ authorized to do business in the State of Illinois.  
4 (Source: P.A. 82-1005.)

5 (215 ILCS 5/512-6) (from Ch. 73, par. 1065.59-6)  
6 Sec. 512-6. Notice. Notice of any change in the terms  
7 of a pharmaceutical benefits management ~~third-party~~  
8 ~~prescription~~ program, including but not limited to drugs  
9 covered, reimbursement rates, co-payments, and dosage  
10 quantity, shall be given to each enrolled pharmacy at least 30  
11 days prior to the time it becomes effective.  
12 (Source: P.A. 82-1005.)

13 (215 ILCS 5/512-7) (from Ch. 73, par. 1065.59-7)  
14 Sec. 512-7. Required program and contractual ~~Contractual~~  
15 provisions.  
16 (a) Any agreement or contract entered into ~~in this State~~  
17 between a PBM ~~the administrator of a program~~ and a pharmacy  
18 under a pharmaceutical benefits management program shall  
19 include a statement of the method and amount of reimbursement  
20 to the pharmacy for services rendered to covered persons  
21 enrolled in the program, the frequency of payment by the PBM  
22 ~~program administrator~~ to the pharmacy for those services, and a  
23 method for the adjudication of complaints and the settlement of  
24 disputes between the contracting parties.

1           (b) Every prescription benefit management program shall  
2 ~~(1) A program shall~~ provide an annual period of at least 30  
3 days during which any pharmacy licensed under the Pharmacy  
4 Practice Act may elect to participate in the program under the  
5 program terms for at least one year. Beginning January 1, 2009,  
6 all agreements between a pharmaceutical benefits management  
7 program and any other person shall comply with the requirements  
8 of this Law. To the extent that any such agreement renewed or  
9 extended after December 31, 2008, fails to comply with the  
10 requirements of this Law, such requirements shall be deemed to  
11 be incorporated into those agreements by operation of law as of  
12 the date of the renewal of execution.

13           ~~(2) If compliance with the requirements of this~~  
14 ~~subsection (b) would impair any provision of a contract~~  
15 ~~between a program and any other person, and if the contract~~  
16 ~~provision was in existence before January 1, 1990, then~~  
17 ~~immediately after the expiration of those contract~~  
18 ~~provisions the program shall comply with the requirements~~  
19 ~~of this subsection (b).~~

20           ~~(3) This subsection (b) does not apply if:~~

21           ~~(A) the program administrator is a licensed health~~  
22 ~~maintenance organization that owns or controls a~~  
23 ~~pharmacy and that enters into an agreement or contract~~  
24 ~~with that pharmacy in accordance with subsection (a);~~  
25 ~~or~~

26           ~~(B) the program administrator is a licensed health~~

1 ~~maintenance organization that is owned or controlled~~  
2 ~~by another entity that also owns or controls a~~  
3 ~~pharmacy, and the administrator enters into an~~  
4 ~~agreement or contract with that pharmacy in accordance~~  
5 ~~with subsection (a).~~

6 ~~(4) This subsection (b) shall be inoperative after~~  
7 ~~October 31, 1992.~~

8 (c) (Blank). ~~The program administrator shall cause to be~~  
9 ~~issued an identification card to each person enrolled in the~~  
10 ~~program. The identification card shall include:~~

11 ~~(1) the name of the individual enrolled in the program;~~  
12 ~~and~~

13 ~~(2) an expiration date if required under the~~  
14 ~~contractual arrangement or agreement between a provider of~~  
15 ~~pharmaceutical services and prescription drug products and~~  
16 ~~the third party prescription program administrator.~~

17 (Source: P.A. 95-689, eff. 10-29-07.)

18 (215 ILCS 5/512-7.5 new)

19 Sec. 512-7.5. Disclosures.

20 (a) A PBM or pharmaceutical manufacturer shall provide to a  
21 covered entity all appropriate financial and utilization  
22 information in aggregate relating to the cost of services to  
23 that covered entity. A PBM or pharmaceutical manufacturer  
24 providing information under this subsection (a) shall  
25 designate that information as confidential. Information

1 designated as confidential by a PBM and provided to a covered  
2 entity under this subsection (a) shall not be disclosed by the  
3 covered entity to any person without the consent of the PBM or  
4 pharmaceutical manufacturer, except that disclosure may be  
5 made in a court filing or when authorized by law or ordered by  
6 a court of this State for good cause. Any unauthorized  
7 disclosure by a PBM or covered entity of information that is  
8 protected by the Illinois Trade Secrets Act shall result in a  
9 civil penalty of \$10,000 per incident and, where disclosure is  
10 found to be willful, punitive damages may apply.

11 (b) A PBM shall disclose to the covered entity all  
12 appropriate financial terms and arrangements for remuneration  
13 of any kind resulting from arrangements between the PBM and any  
14 labeler, including without limitation formulary management and  
15 drug-switch programs and specifically excluding any financial  
16 terms and arrangements with prescription drug manufacturers,  
17 educational support, claims processing, and pharmacy network  
18 fees that are charged from retail pharmacies and data sales  
19 fees. Any and all information disclosed under this subsection  
20 (b) may be designated as confidential. Information designated  
21 as confidential by a PBM and provided to a covered entity under  
22 this subsection (b) may not be disclosed by the covered entity  
23 to any person without the consent of the PBM, except as may be  
24 required in a court of law with proper jurisdiction or as  
25 authorized by law.

26 (c) A PBM shall disclose to each covered entity and covered

1 individual, either electronically or in writing and in a manner  
2 calculated to be understood by layperson, all of the following  
3 information:

4 (1) The amount of copayment, coinsurance, and  
5 deductible associated with each and every tier of covered  
6 prescription drugs.

7 (2) A notice to the covered individual advising the  
8 covered individual to contact the PBM before filling or  
9 obtaining a refill for a particular prescription drug the  
10 covered individual is currently using to determine whether  
11 there has been any change in (i) the requirements for  
12 obtaining coverage for the drug or (ii) the amount that the  
13 covered individual is required to pay out-of-pocket for the  
14 drug.

15 (3) A notice to the covered individual advising the  
16 covered individual to consider contacting his or her  
17 prescribing provider to determine whether there is an  
18 acceptable generic or other alternative prescription drug  
19 that can be used to treat the covered individual's disease  
20 or medical condition that is available at a lower  
21 out-of-pocket level.

22 (d) Nothing in this Section shall prohibit a pharmacy  
23 network provider from advising a covered individual of (i)  
24 alternative generic prescription drugs that might be available  
25 to the covered individual at a lower out-of-pocket level and  
26 (ii) that the covered individual may contact his or her

1 prescribing provider to determine whether there is an  
2 acceptable alternative prescription drug that can be used to  
3 treat the covered individual's disease or medical condition  
4 that is available at a lower out-of-pocket level.

5 (215 ILCS 5/512-7.10 new)

6 Sec. 512-7.10. Recoupment. A PBM shall provide the pharmacy  
7 or pharmacy network provider a remittance advice which must  
8 include an explanation of a recoupment or offset taken by a  
9 PBM, if any. The recoupment explanation shall, at a minimum,  
10 include the name of the patient, the date of dispensing, the  
11 prescription drug or drugs dispensed, the recoupment amount,  
12 and the reason for the recoupment or offset. In addition, a PBM  
13 shall provide with the remittance advice a telephone number or  
14 mailing address to initiate an appeal of the recoupment or  
15 offset.

16 (215 ILCS 5/512-8) (from Ch. 73, par. 1065.59-8)

17 Sec. 512-8. Cancellation procedures.

18 (a) The pharmacy benefits manager ~~administrator of a~~  
19 ~~program~~ shall notify all pharmacies enrolled in the program of  
20 any cancellation of the coverage of benefits of any group  
21 enrolled in the program at least 30 days prior to the effective  
22 date of such cancellation. However, if the PBM ~~administrator of~~  
23 ~~a program~~ is not notified at least 45 days prior to the  
24 effective date of such cancellation, the PBM ~~administrator~~

1 shall notify all pharmacies enrolled in the program of the  
2 cancellation as soon as practicable after having received  
3 notice.

4 (b) When a program is terminated, all persons enrolled  
5 therein shall be so notified by the PBM, ~~and the employer shall~~  
6 ~~make every reasonable effort to gain possession of any plan~~  
7 ~~identification cards in such persons' possession.~~

8 (c) Any person who intentionally uses a program  
9 identification card to obtain services from a pharmacy after  
10 having received notice of the cancellation of his benefits  
11 shall be guilty of a Class C misdemeanor. Persons shall be  
12 liable to the PBM ~~program administrator~~ for all monies paid by  
13 the PBM ~~program administrator~~ for any services received  
14 pursuant to any improper use of the identification card.

15 (Source: P.A. 82-1005.)

16 (215 ILCS 5/512-9) (from Ch. 73, par. 1065.59-9)

17 Sec. 512-9. Denial of Payment.

18 (a) No PBM ~~administrator~~ shall deny payment to any pharmacy  
19 for covered pharmaceutical services or prescription drug  
20 products rendered as a result of the misuse, fraudulent or  
21 illegal use of an identification card unless such  
22 identification card had expired, been noticeably altered, or  
23 the pharmacy was notified of the cancellation of such card. In  
24 lieu of notifying pharmacies which have a common ownership, the  
25 PBM ~~administrator~~ may notify a party designated by the pharmacy

1 to receive such notice, in which case, notification shall not  
2 become effective until 5 calendar days after the designee  
3 receives notification.

4 (b) No PBM ~~program administrator~~ may withhold any payment  
5 to any pharmacy for covered pharmaceutical services or  
6 prescription drug products beyond the time period specified in  
7 the payment schedule provisions of the agreement, except for  
8 individual claims for payment which have been returned to the  
9 pharmacy as incomplete or illegible. Such returned claims shall  
10 be paid if resubmitted by the pharmacy to the PBM ~~program~~  
11 ~~administrator~~ with the appropriate corrections made.

12 (c) No PBM may deny a claim for payment for filling a  
13 prescription from a network pharmacy provider that exceeds the  
14 MAC, unless the PBM advises the network pharmacy provider how  
15 to obtain the particular drug at the MAC rate.

16 (Source: P.A. 82-1005.)

17 (215 ILCS 5/512-10) (from Ch. 73, par. 1065.59-10)

18 Sec. 512-10. Failure to obtain licensure ~~Register~~. Any  
19 pharmaceutical benefits management ~~third party prescription~~  
20 program or PBM that ~~administrator which~~ operates without a  
21 license ~~certificate of registration or fails to register with~~  
22 ~~the Director and pay the fee prescribed by this Article~~ shall  
23 be construed to be an unauthorized insurer as defined in  
24 Article VII of this Code and shall be subject to all penalties  
25 contained therein.

1       ~~The provisions of the Article shall apply to all new~~  
2 ~~programs established on or after January 1, 1983. Existing~~  
3 ~~programs shall comply with the provisions of this Article on~~  
4 ~~the anniversary date of the programs that occurs on or after~~  
5 ~~January 1, 1983.~~

6       (Source: P.A. 82-1005.)

7             (215 ILCS 5/512-11 new)

8       Sec. 512-11. Examination of business and affairs.

9       (a) The Director may, when and as often as the Director  
10 deems it reasonably necessary to protect the interests of the  
11 public, examine the business and affairs of any licensed PBM.

12       (b) Licensees shall maintain for a period of 5 years copies  
13 of all documents, books, records, accounts, papers, and any or  
14 all computer or other recordings relating to the licensee's  
15 business and affairs of operating a pharmaceutical benefit  
16 management program.

17       (c) Every licensee or person from whom information is  
18 sought, including all officers, directors, employees and  
19 agents of any licensee or person from whom information is  
20 sought, shall provide to the examiners timely, convenient, and  
21 free access at all reasonable hours at the licensee's or  
22 person's offices to all books, records, accounts, papers,  
23 documents, assets, and computer or other recordings relating to  
24 the property, assets, business, and affairs of the licensee  
25 being examined. The officers, directors, employees, and agents

1 of the licensee or person shall facilitate the examination and  
2 aid in the examination so far as it is in their power to do so.  
3 The refusal of a licensee, through its officers, directors,  
4 employees, or agents, to submit to examination or to comply  
5 with any reasonable written request of the Director shall be  
6 grounds for suspension, revocation, or denial of issuance or  
7 renewal of any license or authority held by the licensee  
8 pursuant to this Law.

9 (d) The Director or his or her designee shall have the  
10 power to issue subpoenas, administer oaths, and examine under  
11 oath any person as to any matter pertinent to the examination.  
12 Upon the failure or refusal of a person to obey a subpoena, the  
13 Director may petition a court of competent jurisdiction, and  
14 upon proper showing, the court may enter an order compelling  
15 the witness to appear and testify or produce documentary  
16 evidence.

17 (e) When making an examination under this Law, the Director  
18 may retain attorneys, appraisers, independent actuaries,  
19 independent certified public accountants, or other  
20 professionals and specialists as examiners. The costs of  
21 retaining the examiners, including their work, travel, and  
22 living expenses shall be borne by the licensee that is the  
23 subject of the examination.

24 (215 ILCS 5/512-12 new)

25 Sec. 512-12. Fines and penalties. In addition to or instead

1 of any applicable denial, suspension, or revocation of a  
2 license issued under this Law, a licensee may, after a hearing,  
3 be subject to a civil penalty of up to \$500,000 for each cause  
4 of denial, suspension, or revocation.

5 Any licensee or other person who willfully or repeatedly  
6 fails to observe or who otherwise violates any of the  
7 provisions of this Law or this Code or any rule adopted or  
8 final order entered thereunder shall, by civil penalty, forfeit  
9 to the Division a sum not to exceed \$5,000. Each day during  
10 which a violation occurs constitutes a separate offense.

11 (215 ILCS 5/512-13 new)

12 Sec. 512-13. Rulemaking. The Director shall have the  
13 authority to adopt any rules necessary for the implementation  
14 and administration of this Article."